

Message Text

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15/63

ORIGIN EUR-12

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DRAFTED BY:EUR/EE:DNMILLER/CUSTOMS:LSELIGMAN:CENSUS:DROBISON

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COMMERCE/BEWT:MR DOWNEY (INFO)

COMM/BEWT/TAD:DBOWIE (INFO)

TREAS:SLYON (INFO)

CUSTOMS:SCARAMAGNO

EUR/EE:NGANDREWS

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FM SECSTATE WASHDC

TO AMEMBASSY BUDAPEST IMMEDIATE

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C O R R E C T E D C O P Y - MISSING LINE PARA FIVE

E.O. 11652: N/A

TAGS: EFIN, HU, US

SUBJECT: HUNGARIAN CLAIMS AGREEMENT ASSESSMENT

REF: BUDAPEST 1567 AND 1622

1. UNLESS EMBASSY OBJECTS, REQUEST A NOTE WITH THE FOLLOWING BODY BE DELIVERED AS THE REPLY TO THE MFA MAY 23 NOTE:

QUOTE: THE F.O.B. VALUE OF DOLLAR IMPORTS INTO THE U.S.

FROM HUNGARY, AS TAKEN FROM THE OFFICIAL PUBLICATION OF THE

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UNITED STATES DEPARTMENT OF COMMERCE (THAT IS FT 990, "U.S. FOREIGN TRADE, HIGHLIGHTS OF EXPORTS AND IMPORTS"), IS CALCULATED IN THE SAME MANNER AS PREVIOUS TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA

AND THE HUNGARIAN PEOPLE'S REPUBLIC REGARDING THE SETTLEMENT OF CLAIMS, CONCLUDED IN WASHINGTON MARCH 6, 1973.

2. ALL ARTICLES ENTERED INTO THE CUSTOMS TERRITORY OF THE U.S. ARE SUBJECT TO DUTY UNLESS SPECIFICALLY EXEMPT. INTANGIBLES, DEFINED IN PERTINENT PART BY GENERAL HEADNOTE

5 (B), TARIFF SCHEDULES OF THE UNITED STATES (TSUS), AS INCLUDING "CURRENCY (METAL OR PAPER) IN CURRENT CIRCULATION IN ANY COUNTRY AND IMPORTED FOR MONETARY PURPOSES," ARE NOT "ARTICLES" WITHIN THE MEANING OF THE TSUS AND, THEREFORE, ARE EXEMPT FROM BOTH THE PROVISIONS OF THE TSUS AND THE ENTRY REQUIREMENTS OF 19 CODE OF FEDERAL REGULATIONS 141.4.

3. IT HAS
BEEN THE CONSISTENT POSITION OF THE GOVERNMENT
OF THE UNITED STATES THAT GOLD COINS SUCH AS THOSE IN
QUESTION ARE NOT WITHIN THE MEANING OF THE TERM "CURRENCY",
AS SET FORTH IN THE ABOVE-CITED GENERAL HEAD NOTE AND,
THEREFORE, ARE NOT INTANGIBLES EXEMPT FROM EITHER THE

APPLICATION OF THE APPROPRIATE TSUS PROVISIONS OR THE ENTRY
REQUIREMENTS OF 19 CODE OF FEDERAL REGULATIONS 141.4

4. THE GOLD COINS AT ISSUE ARE PROPERLY CLASSIFIABLE UNDER
THE PROVISION FOR METAL COINS IN ITEM 653.22, TSUS, AND, AS
SUCH, ARE ENTITLED TO DUTY-FREE TREATMENT IRRESPECTIVE OF
COUNTRY OF ORIGIN. THE COMPETING STATISTICAL BREAKOUTS OF
653.22 ARE: (A) "20...GOLD COINS EXCEPT NUMISMATIC," AND
(B) "60...OTHERS." FROM THE INFORMATION PRESENTLY BEFORE
THE U.S. CUSTOMS SERVICE, IT IS APPARENT THAT THE GOLD
COINS AT ISSUE, NOT BEING "CURRENCY", MUST BE OF NUMISMATIC
INTEREST AND IMPORTED FOR THAT PURPOSE; THEREFORE, THE
PROPER STATISTICAL SUFFIX TO BE APPLIED TO THESE GOLD COINS
IS "60."

5. THAT THE COUNTRY OF ORIGIN OF THESE GOLD COINS IS
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HUNGARY MUST BE ASSUMED FROM THE INFORMATION BEFORE US
AT THIS TIME. GOLD BULLION IN THE FORM OF PLANCHETS IS
SHIPPED TO BUDAPEST AND THERE STAMPED. THE GOLD BULLION
AND/OR PLANCHETS HAVING UNDERGONE A SIBSTANTIAL TRANSFORM-
ATION, THE GOLD COINS CONSTITUTE A NEW ARTICLE OF COMMERCE
AND ARE A PRODUCT OF HUNGARY.

6. FOR PURPOSES OF ADMINISTERING THE CUSTOMS LAW OF THE
UNITED STATES, THE VALUE OF THESE GOLD COINS ENTERED
INTO THE CUSTOMS TRRITORY OF THE UNITED STATES IS ASCER-
TAINED ACCORDING TO THE PROVISION 19 USC 1401A (1), PUR-
SUANT TO WHICH "COUNTRIES OF EXPORTATION" MUST BE DETER-

MINED. SINCE THE GOLD COINS AT ISSUE ARE APPARENTLY
SHIPPED DIRECTLY FROM HUNGARY TO THE U.S., THERE IS NO

QUESTION THAT HUNGARY MUST BE THE "COUNTRY OF EXPORTATION."
EVEN SHOULD THE COINS HAVE BEEN TRANSSHIPPED THROUGH A
THIRD COUNTRY, THERE IS NO EVIDENCE BEFORE THE U.S. CUSTOMS
SERVICE THAT THE COINS ACTUALLY ENTER THE COMMERCE OF ANY
OTHER COUNTRY DURING THE COURSE OF THEIR SHIPMENT; THERE-
FORE, FOR PURPOSES OF THIS PROVISION, HUNGARY IS THE
"COUNTRY OF EXPORTATION." FOR U.S. CUSTOMS PURPOSES THE
COUNTRY OF ORIGIN AND THE COUNTRY OF EXPORTATION, AND NOT
OWNERSHIP, ARE DETERMINATIVE. THE ENTIRE VALUE OF OUR IM-
PORT IS ATTRIBUTED TO THE COUNTRY OF EXPORTATION.

7. THE TREATMENT ACCORDED TO, AND THE INFORMATION COM-
PILED ON, THESE COINS IS, IN ALL RESPECTS, THE SAME AS
ACCORDED TO, AND COMPILED ON, IMPORTATION OF GOLD COINS
FROM OTHER COUNTRIES, AND IS UNCHANGED SINCE PREVIOUS TO
THE AGREEMENT REGARDING THE SETTLEMENT OF CLAIMS.

8. THE GOVERNMENT OF THE UNITED STATES OF AMERICA HOPES
THAT THIS INFORMATION CLARIFIES THE STATISTICS USED IN
CONNECTION WITH ARTICLE IV OF THE AGREEMENT. END QUOTE.

9. IN PRESENTING THIS NOTE EMBASSY SHOULD, IN ADDITION TO
CALLING ATTENTION TO ITS SUBSTANCE, underscore the fact
THAT THE ADDITIONAL AMOUNT DUE THIS YEAR IS AN ANTECI-
PATION OF FUTURE PAYMENTS DUE UNDER THE CLAIMS AGREEMENT
AND NOT REPEAT NOT AN INCREMENT TO THE TOTAL AMOUNT DUE
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UNDER THE AGREEMENT.

10. WE WOULD APPRECIATE CABLED DATE AND NUMBER OF NOTE
PRESENTED. INGERSOLL

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<< END OF DOCUMENT >>

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